

SUPPLEMENTAL AGREEMENT NO. 1

to

SS9228-0/12**Maintenance and Support Agreement for Allen Systems Group, Inc. (ASG)**

Contract Number: SS9228-0/12 (Executed on February 9, 2010)

Contract Title: "ASG SOFTWARE MAINTENANCE AND SUPPORT AGREEMENT"

Contractor: ALLEN SYSTEMS GROUP INC
1333 3RD AVENUE SOUTH,
NAPLES, FLORIDA 34102

In accordance with the above referenced Contract, this Supplemental Agreement No. 1, when properly executed, amends Contract No. SS9228-0/12 ("Contract") and sets forth the terms and conditions that are in addition to and/or modify those terms and conditions set forth in the original Contract. In case of any conflict between the Contract and this Supplemental Agreement No. 1, the terms and conditions of this Supplemental Agreement No. 1 shall control. Except as otherwise modified herein, all terms and conditions of the original Contract shall remain in full force and effect.

Now therefore, upon the effective date of this Supplemental Agreement No. 1, the parties agree to the following:

1. The contract expiration will be extended to April 10, 2017. All products and services will be payable on a yearly basis.
2. Perfman Software is incorporated into the Contract in accordance with the terms and conditions of said Contract, as a result of the recent acquisition by Contractor, as outlined in Attachment 1.
3. ASG-becubic and ASG-CAE software applications and associated maintenance and support services shall be added to the Contract as detailed in the attached Product Schedule #8.

IN WITNESS WHEREOF, the parties have executed this Supplemental Agreement No. 1 to County Contract No. SS9228-0/12.

LICENSORBy: [Signature]Name: Linda J. StephensonTitle: Sr Director ContractingDate: 2-15-2012Attest: [Signature]
Corporate Secretary

Corporate or Notary Seal

MIAMI-DADE COUNTYBy: [Signature]Name: EDWARD MARQUEZ
DEPUTY MAYORTitle: MIAMI-DADE CTY. FLDate: 3/20/12Attest: [Signature]
Clerk of the Board Gene Spencer
3/23/12Approved as to form
and legal sufficiency[Signature]
Assistant County Attorney



July 1, 2011

**Re: Acquisition of The Information Systems Manager, Inc., a Pennsylvania corporation
doing business as Perfman ("Perfman") by Allen Systems Group, Inc. ("ASG")**

To Whom It May Concern:

This letter is to inform you that on June 30, 2011, ASG acquired ownership of one hundred percent (100%) of the capital stock of Perfman as a result of a merger (the "Merger") of ASG M&A (PA), Inc., a Pennsylvania corporation, with and into Perfman pursuant to an Agreement and Plan of Merger among, ASG, ASG M&A (PA), Inc., Perfman and the Shareholder Representative.

If you have any further questions or need additional information on the Perfman acquisition, please feel free to contact me directly by phone at (239) 435-2302 or by email at derek.eckelman@asg.com.

Very truly yours,
ALLEN SYSTEMS GROUP, INC.

A handwritten signature in black ink, appearing to read "Derek S. Eckelman". The signature is written in a cursive, flowing style.

Derek S. Eckelman
Executive Vice President and General Counsel

ATTACHMENT NO. 1**PRODUCT SCHEDULE NO. 8****LICENSE TYPE:**

Perpetual License

The Licensed Product(s) consist of the Original Licensed Product(s) and the New Licensed Product(s) listed below

ORIGINAL LICENSED PRODUCT(S) AND EFFECTIVE DATE(S):

December 31, 2001 (Originally licensed on Schedule #1 through Information Management Systems)

ASG-PERFMAN™ Server - 1

ASG-PERFMAN 2020™ for z/OS - (1,134 MIPS)

December 31, 1993 (Originally licensed on product Schedule #1 through Allen Systems Group)

ASG-Doc-Aid® - Group 120

EFFECTIVE DATE OF NEW LICENSED PRODUCT(S):

March 30, 2012

NEW LICENSED PRODUCT(S):

ASG-becubic™ Client – (1)

ASG-becubic™ Client Concurrent User – (25)

ASG-becubic™ Server - IBM Websphere – (1)

ASG-becubic™ Server - JBoss – (1)

ASG-becubic™ Web Client – (1)

ASG-CAE Interface for CA-Panvalet® - (1)

ASG-CAE Interface for Rational® ClearCase® - (1)

ASG-CAE Provider Environment - Distributed – (1)

ASG-CAE Provider Environment - z/OS – (1)

ASG-CAE Provider for CA-ADS/O – (1)

ASG-CAE Provider for CA-IDMS/DB – (1)

ASG-CAE Provider for CA-IDMS/DC – (1)

ASG-CAE Provider for COBOL z/OS – (1)

ASG-CAE Provider for JCL z/OS – (1)

ASG-CAE Provider for Oracle® Schema – (1)

ASG-CAE Provider for Oracle® Stored Procedures (PL/SQL) – (1)

ASG-CAE Provider for Web Services – (1)

ASG-CAE Provider for XML – (1)

ASG-CAE Source Collector for Windows – (1)

ASG-CAE Source Collector for z/OS – (1)

DESIGNATED EQUIPMENT/SERIAL NUMBER(S):

IBM 2098 P03 S/N: C65F2

IBM 2098 P03 S/N: CE8C2

CENTRAL MAINTENANCE LOCATION(S):5680 SW 87th Avenue

Miami, Florida 33173

ACCEPTANCE PERIOD:

Zero (0) days

FEES AND PAYMENTS:

Total Fee: \$615,200

The Total Fee includes the License Fee for the Licensed Product(s), the professional services as described below, and all of the Annual Maintenance Fees ("Maintenance Fees") for the Contract term.

The County has agreed to pay the Total Fee as follows:

| | | |
|---------------------------------|------------------|----------------------|
| New Licensed Products | License Fee: | \$127,656.00 |
| Due on or before March 30, 2012 | Maintenance Fee: | <u>\$ 64,844.00</u> |
| | Total: | \$192,500.00 |
| Year 1 | | |
| Due on or before March 30, 2013 | Maintenance Fee: | \$ 84,540.00 |
| Year 2 | | |
| Due on or before March 30, 2014 | Maintenance Fee: | \$ 84,540.00 |
| Year 3 | | |
| Due on or before March 30, 2015 | Maintenance Fee: | \$ 84,540.00 |
| Year 4 | | |
| Due on or before March 30, 2016 | Maintenance Fee: | \$ 84,540.00 |
| Year 5 | | |
| Due on or before March 30, 2017 | Maintenance Fee: | <u>\$ 84,540.00</u> |
| | Total: | \$ 615,200.00 |

The annual maintenance allocation by Licensed Product is as follows:

ASG-PERFMAN™ for z/OS Maintenance = \$ 8,901 / Year
 ASG-PERFMAN™ Server Maintenance = \$ 8,901 / Year
 ASG-Doc-Aid® Maintenance = \$ 47,042 / Year
 ASG-becubic™ Client Maintenance = \$ 1,454 / Year
 ASG-becubic™ Client Concurrent User Maintenance = \$ 10,165 / Year
 ASG-becubic™ Server - IBM Websphere Maintenance = \$ 0 / Year
 ASG-becubic™ Server - JBoss Maintenance = \$ 0 / Year
 ASG-becubic™ Web Client Maintenance = \$ 1,454 / Year
 ASG-CAE Interface for CA-Panvalet® Maintenance = \$ 454 / Year
 ASG-CAE Interface for Rational® ClearCase® Maintenance = \$ 454 / Year
 ASG-CAE Provider Environment - Distributed Maintenance = \$ 0 / Year
 ASG-CAE Provider Environment - z/OS Maintenance = \$ 0 / Year
 ASG-CAE Provider for CA-ADS/O Maintenance = \$ 635 / Year
 ASG-CAE Provider for CA-IDMS/DB Maintenance = \$ 635 / Year
 ASG-CAE Provider for CA-IDMS/DC Maintenance = \$ 635 / Year
 ASG-CAE Provider for COBOL z/OS Maintenance = \$ 635 / Year
 ASG-CAE Provider for JCL z/OS Maintenance = \$ 635 / Year
 ASG-CAE Provider for Oracle® Schema Maintenance = \$ 635 / Year
 ASG-CAE Provider for Oracle® Stored Procedures (PL/SQL) Maintenance = \$ 635 / Year
 ASG-CAE Provider for Web Services Maintenance = \$ 635 / Year
 ASG-CAE Provider for XML Maintenance = \$ 635 / Year
 ASG-CAE Source Collector for Windows Maintenance = \$ 0 / Year
 ASG-CAE Source Collector for z/OS Maintenance = \$ 0 / Year

Should future renewals be completed after 2017, the Annual Maintenance Fee for the Licensed Product(s) shall not increase by more than five percent (5%) per annum over the prior year's Annual Maintenance Fee or the increase in the Consumer Price Index, whichever is less. This limitation shall not apply to increases in licensed capacity or usage.

ADDITIONAL TERMS AND CONDITIONS:

The County hereby acknowledges receipt of the above Licensed Product(s).

The license granted herein is perpetual. Commencing upon the final maintenance payment outlined herein and provided all fees due under this Contract, including any applicable upgrade fees, are paid in full, the County may elect to cancel maintenance services and retain the right to use the Licensed Product(s) in accordance with the terms and conditions of this Contract. If the County elects to cancel maintenance services, County (i) shall not be entitled to a refund of any fees which are due and payable under this Agreement or which have been paid, and (ii) shall not be entitled to receive any rights provided for in the Agreement related to maintenance services including Customer Support Desk, error corrections, enhancements, improvements and updates. The County may elect to reinstate maintenance services by paying all maintenance fees that would have been due had the County not canceled maintenance services, in addition to the Maintenance Fee for the then current maintenance period.

The County shall have the right to substitute the Licensed Product ASG-CAE Interface for Rational® ClearCase® - (1) for the product Interface for Rational Team Concert at no cost provided that ASG, in its sole discretion, elects to develop this product and make it generally available.

During the Contract term, and provided the County has paid or is current with payment of the Total Fee, the County may exchange ASG-DocAid® for ASG-DOCU/TEXT® for no additional cost provided that the exchange may only occur at County's determination that the exchanged product has similar features and functionality to that of the original Licensed Product.

The Total Fee includes thirty five (35) days of professional services to be rendered by ASG to the County prior to June 30, 2012 and at times to be mutually agreed upon between ASG and the County.

During the Contract Term, any additional professional services purchased by the County from ASG will be billed at \$1,500.00 per day, exclusive of travel and related expenses. Any travel expense reimbursement will be subject to Article 5.3 of the Contract. This amount for professional services shall be billed for these Licensed Products and any other products licensed from ASG by the County.

The County may utilize the Licensed Products at any Miami Dade County Data Center, as long as the above licensed capacities are not exceeded.

All software maintenance services, including changes, updates, new releases and modifications provided by ASG shall be provided only to the County's Central Maintenance Location. This location will be responsible for receipt of the Licensed Product(s), maintenance requests, documentation, distribution, etc. of the Licensed Product(s) for all licensed locations.

Notwithstanding anything in the Contract to the contrary, the following warranty terms shall apply to the New Licensed Products: ASG represents and warrants that it is the owner or authorized licensor of the Licensed Product(s). ASG further warrants that at the time of initial delivery of the New Licensed Product(s) and for a period of ninety (90) days thereafter, the New Licensed Product(s) will conform in all material respects to the Documentation supplied to the County. Provided that written notification is received by ASG within the warranty period, ASG shall, at ASG's sole cost and expense, attempt to correct or replace any material nonconformity in the New Licensed Product(s) which ASG determines to be necessary to cause the New Licensed Product(s) to substantially conform to its Documentation. Should ASG be unable to bring the Licensed Product(s) into substantial conformance with the Documentation within sixty (60) days after the County's written notification, the County and ASG may agree to extend this time period or, at the County's option, the County may elect to terminate this Contract for the nonconforming New Licensed Product(s) and ASG shall refund the license fees paid by the County related to the nonconforming New Licensed Product(s). Upon such termination, the County shall abide by the termination provisions of this Contract. The warranty shall not apply if (i) an item of the New Licensed Product(s) was not used in accordance with ASG's instructions; (ii) an item of the New Licensed Product(s) shall have been altered, modified or converted by the County without ASG's written approval; or (iii) any of the County's equipment shall malfunction causing the defect in the New Licensed Product(s). THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED

OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

Except to the extent required by applicable public records laws, The County shall not transfer, sublease, assign or deliver Licensed Product(s) to other equipment, another location, or another company, or provide or otherwise make Licensed Product(s) available to anyone other than the County's personnel or do processing for the benefit of any entity other than the County, unless the County shall have obtained ASG's prior written consent and paid any applicable fees, which shall be no greater than fifty percent (50%) of the then prevailing license fee of the Licensed Product(s).

The Licensed Products shall be governed by this Product Schedule #8 and the Contract, and any prior product schedule(s) or agreement(s) relating thereto are hereby superseded.

Should this Agreement be terminated for any other reason other than lack of appropriation, prior to the 2017 Maintenance Fee by (i) the County or (ii) ASG upon a breach by the County, which breach remains uncured after sixty (60) days notice thereof, of any material term, condition, representation or warranty of this Agreement, any unpaid portion of the Total Fee shall immediately become due and payable hereunder. This Agreement may be terminated by the County upon a breach by ASG, which breach remains uncured after sixty (60) days notice thereof, of any material term, condition, or representation, The County may seek damages per the terms of the Agreement as a result of any such breach by ASG.

ASG shall furnish to the County, Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

- A. Worker's Compensation Insurance for all employees of the Proposer as required by Florida Statute 440.
- B. Commercial General Liability Insurance on a comprehensive basis in an amount not less than \$300,000 combined single limit per occurrence for bodily injury and property damage. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**
- C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work, in an amount not less than \$300,000 combined single limit per occurrence for bodily injury and property damage.
- D. Professional Liability Insurance in an amount not less than \$1,000,000 per claim.

All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

The company must be rated no less than "B" as to management, and no less than "Class V" as to financial strength by Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

or

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida" issued by the State of Florida, Department of Financial Services and are members of the Florida Guaranty Fund.

Certificates will indicate no modification or change in insurance shall be made without thirty (30) days in advance notice to the certificate holder.

NOTE: MIAMI DADE COUNTY CONTRACT NUMBER AND TITLE OF CONTRACT MUST APPEAR ON EACH CERTIFICATE.

CERTIFICATE HOLDER MUST READ: MIAMI-DADE COUNTY

**111 NW 1st STREET
SUITE 2340
MIAMI, FL 33128**

Compliance with the foregoing requirements shall not relieve ASG of its liability and obligation under this section or under any other section of the Contract.

ASG shall submit a certificate of insurance within ten (10) business days after notification of approval of Supplemental Agreement No. 1. If certificate does not include the coverages outlined in the terms and conditions of this solicitation, ASG shall be given an additional five (5) business days to submit a corrected certificate to the County.

ASG shall be responsible for assuring that the insurance certificate required in conjunction with this Supplemental Agreement No. 1 remain in force for the duration of the contractual period. If insurance certificates are scheduled to expire during the contractual period, ASG shall be responsible for submitting new or renewed insurance certificates to the County at a minimum of thirty (30) calendar days in advance of such expiration. In the event that expired certificates are not replaced with new or renewed certificates which cover the contractual period, the County shall suspend the contract until such time as the new or renewed certificates are received by the County in the manner prescribed in the solicitation; provided, however, that this suspended period does not exceed thirty (30) calendar days. If such suspension exceeds thirty (30) calendars days, the County may, at its sole discretion, terminate this contract for cause and seek damages from ASG.

The Licensed Products shall be governed by this Product Schedule #8 and this Agreement, and any prior product schedule(s) or agreement(s) relating thereto are hereby superseded.

Executed Product Schedule #8 must be received on or before March 30, 2012. If not received by the aforementioned date, the fee(s) may be subject to additional charges.